

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

638086

## INTERLOCAL AGREEMENT

### I. PARTIES

#### A. Address

**THIS INTERLOCAL AGREEMENT** ("Agreement") is made by and between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation and home-rule city of the State of Texas principally situated in Harris County, acting by and through its governing body, the City Council; the **HOUSTON INDEPENDENT SCHOOL DISTRICT** ("HISD"), located at 3830 Richmond Avenue, Houston, Texas 77027; and the **REINVESTMENT ZONE NUMBER SIX, CITY OF HOUSTON, TEXAS** ("Eastside Zone"), a reinvestment zone created by the City of Houston pursuant to Chapter 311 of the Texas Tax Code, acting by and through its Board of Directors. This Agreement is made pursuant to Chapter 791 of the Texas Government Code and Section 311.013 of the Texas Tax Code.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other parties, are as follows:

City	HISD
Director of Finance and Administration Department or Designee City of Houston P. O. Box 1562 Houston, Texas 77251	Houston Independent School District Hattie Mae White Administration Building 3830 Richmond Avenue Houston, Texas 77027-5838

Eastside Zone

Eastside Reinvestment Zone  
HH&W Consultants  
11743 W. Bellfort #309  
Stafford, Texas 77477

**B. Index**

The City, HISD and the Eastside Zone hereby agree to the terms and conditions of this Agreement. This Agreement consists of the following sections:

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Exhibit "A" — City of Houston Ordinance No. 97-59

**C. Parts Incorporated**

All of the above described sections and documents are hereby incorporated into this Agreement by this reference for all purposes.

IN WITNESS HEREOF, the City, HISD and the Eastside Zone have made and executed this Agreement in multiple copies, each of which is an original.

CITY OF HOUSTON *Bob Lanier* HOUSTON INDEPENDENT SCHOOL DISTRICT  
*Walter Stowell* *John M. Allen*  
\_\_\_\_\_  
Mayor Date President, Board of Trustees Date

ATTEST/SEAL:

*Carla Russell* *Carol M. Gallant*  
\_\_\_\_\_  
City Secretary Date Secretary, Board of Trustees Date

COUNTERSIGNED:

*Lloyd E. Helby* *Rod Paige*  
*Gerri Miller* *8/5/97*  
\_\_\_\_\_  
City Controller Date Superintendent of Schools Date

APPROVED:

APPROVED AS TO FORM:

*Edm*  
*Russell Ray* *Donald R Boehm* *5/21/97*  
\_\_\_\_\_  
Director Date Attorney Date  
Department of Finance and Administration

APPROVED AS TO FORM:

*Jo Wignall*  
\_\_\_\_\_  
Sr. Assistant City Attorney Date  
L.D. No. 349637703

REINVESTMENT ZONE NUMBER SIX,  
CITY OF HOUSTON, TEXAS (Eastside Zone)

Stephen L. Mung 6/25/97  
By: \_\_\_\_\_ Date  
Title: Chairman, Board of Directors

ATTEST/SEAL:

Richard L. Harris 6/25/97  
By: \_\_\_\_\_ Date  
Title: Secretary, Board of Directors

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## II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

"Administrative Costs" means the costs of organizing the Eastside Zone, the costs of operating the Eastside Zone and the imputed administrative costs associated with the Eastside Zone, including reasonable charges, not to exceed \$25,000 per year, for the time spent by employees of the City in connection with the implementation of the Project Plan.

"Agreement" means this agreement between the City, HISD and the Eastside Zone.

"Agreement Term" is defined in Section VI.

"Captured Appraised Value" means the captured appraised value of the Eastside Zone as defined by Chapter 311, Texas Tax Code.

"City" is defined in Section I of this Agreement and includes its successors and assigns.

"City Tax Increment" means the amount of the City tax levy on the Captured Appraised Value deposited into the Tax Increment Fund.

"Countersignature Date" means that date shown as the date countersigned by the City Controller on the signature page of this Agreement.

"HISD" is defined in Section I of this Agreement and includes its successors and assigns.

"HISD Tax Increment Participation" means the amount of the HISD tax levy on the Captured Appraised Value which HISD agrees to contribute to the Eastside Zone pursuant to Subsections A and B of Section IV of this Agreement.

"Eastside Area" shall mean the a portion of the eastside area of the City, as more particularly described in Ordinance No. 97-59.

"Eastside Zone" means Reinvestment Zone Number Six, City of Houston, Texas (Eastside), created by the City on January 15, 1997, by Ordinance No. 97-59, attached as Exhibit "A," and includes its successors and assigns.

"Project Plan" means the project plan and reinvestment zone financing plan for the Eastside Zone adopted by the board of directors of the Eastside Zone and approved by the City Council of the City.

"Tax Increment Fund" means the tax increment fund created by the City in the City Treasury for the Eastside Zone.

Otherwise, the terms used herein shall have the meanings ascribed to them in Chapter 311, Texas Tax Code, or the Texas Education Code, as applicable.

### **III. BACKGROUND**

By Ordinance No. 97-59, adopted January 15, 1997, the City created the Eastside Zone for the purposes of development and redevelopment in the Eastside Area, in particular the construction of educational facilities. The City will contribute tax increments produced in the Eastside Zone to the Tax Increment Fund after January 1, 1998. HISD owns property in the Eastside Zone on which it plans to construct an educational facility, Cesar Chavez High School. HISD desires to participate in the Eastside Zone in consideration for the agreements set forth below.

### **IV. OBLIGATIONS OF HISD**

#### **A. Tax Increment Participation by HISD**

For and in consideration of the agreements of the parties set forth herein, and subject to the remaining subsections of this section, HISD agrees to participate in the Eastside Zone by

contributing one hundred percent (100%) of the tax increment produced in the Eastside Zone attributable to HISD to the Tax Increment Fund during the term of this agreement.

**B. Tax Increment Limitation**

Subject to the limitations set out in this Agreement, the amount to be contributed by HISD (the "HISD Tax Increment Participation") is the amount of taxes collected by HISD each year during the term of this Agreement at an HISD tax rate of \$1.384 per \$100 valuation on the Captured Appraised Value. If the HISD tax rate is less than \$1.384 per \$100 valuation, then the HISD Tax Increment Participation is the amount of taxes collected by HISD at the actual tax rate of HISD on the Captured Appraised Value. Taxes collected by HISD on the Captured Appraised Value as a result of an HISD tax levy at a tax rate greater than \$1.384 per \$100 valuation shall be retained by HISD.

HISD's Tax Increment Participation and obligation to participate in the Eastside Zone shall be restricted to its tax increment collected on the Captured Appraised Value in the Eastside Zone beginning on January 1, 1998. HISD shall not be obligated to pay its HISD Tax Increment Participation from other HISD taxes or revenues or until the HISD Tax Increment Participation in the Eastside Zone is actually collected. The obligation to pay the HISD Tax Increment Participation shall accrue as taxes representing the HISD tax increment are collected by HISD and payment shall be due on the first day of each calendar quarter beginning April 1, 1998. The City and the Eastside Zone agree that no interest or penalty will be charged to HISD.

**C. Shared Educational Facilities**

HISD agrees that the City will be permitted to use the grounds and facilities of the educational facilities constructed with or financed by monies from the Tax Increment Fund, and

that HISD and the City will negotiate use agreements for such use. HISD will allow the City to use, at no cost to the City other than proportionate utility, maintenance and building personnel costs of HISD, ballfields, tennis courts and other outdoor recreational areas, indoor recreational areas, lunchrooms, and other assembly areas of the Cesar Chavez High School for municipal recreational and meeting purposes, at all reasonable times to be agreed to by the City and HISD that HISD is not conducting school or other related activities at the facilities.

**D. Changes in Applicable Laws**

In the event that the laws applicable to HISD or tax increment reinvestment zones are changed so that the participation of HISD in the Eastside Zone decreases the amount of state and local funds available to HISD, the City and the Eastside Zone agree that the HISD Tax Increment Participation shall be decreased by the amount of the decrease in HISD state and local funding as a result of HISD's participation in the Eastside Zone.

**E. Expansion of Eastside Zone**

The obligation of HISD to participate in the Eastside Zone is limited to the area described in Exhibit "A" attached hereto. HISD's participation shall not extend to the tax increment on any additional property added to the Eastside Zone by the City unless HISD approves the participation.

**E. Board of Directors**

Notwithstanding anything to the contrary in City of Houston Ordinance No. 97- 59, which created the Eastside Zone, HISD shall have the unequivocal right to appoint to and maintain one (1) member on the Eastside Zone Board of Directors. Failure of HISD to appoint a person to the Board of Directors of the Eastside Zone by January 1, 1998, shall not be deemed a waiver



of HISD's right to make an appointment by a later date. HISD may also appoint and maintain as many nonvoting ex officio members on the Eastside Board of Directors as HISD may desire.

## **V. OBLIGATIONS OF CITY AND EASTSIDE ZONE**

### **A. Street Right of Way**

To the extent requested by HISD, the City and the Eastside Zone agree that monies from the Tax Increment Fund shall be used, at no cost to HISD, to pay to the City the following costs that otherwise would be incurred by HISD with respect to the construction and operation of any educational facilities constructed by or on behalf of HISD in the Eastside Zone pursuant to the Project Plan: (a) the cost of abandonment of any street right of way by the City on behalf of HISD and (b) the cost of water and sewer utility connections and construction outside the boundaries of HISD property (collectively, "School Support Expenses"). The City shall use proceeds obtained from payments made pursuant to the preceding sentence for infrastructure improvements or other projects identified in the Eastside Zone Project Plan.

### **B. Project Plan**

The parties agree that the Superintendent of Schools of HISD shall be permitted to review and comment upon the Eastside Zone Project Plan and any amendments thereto before the Project Plan or any amendments thereto are submitted to the City Council for City approval. Any Eastside Zone Project Plan shall provide for the construction of educational facilities within the Eastside Zone.

### **C. Financing and Construction of Educational Facilities**

The City shall deposit the HISD Tax Increment Participation and the City Tax Increment into the Tax Increment Fund. These monies shall be allowed to accumulate in the Tax Increment

Fund except to the extent needed to pay Administrative Costs and School Support Expenses. At the time the HISD Tax Increment Participation and the City Tax Increment produce an aggregate tax increment of \$4 million per year attributable to HISD and the City (the "Trigger Amount"), the Eastside Zone and the City agree to proceed with the financing, design and construction of HISD school facilities on property owned by HISD in the Eastside Zone; provided, however, that the cost of the HISD school facilities to be financed pursuant to this Agreement shall not exceed \$45 million plus the cost of financing. The balance in the Tax Increment Fund at the time the annual aggregate increment attributable to HISD and the City reaches the Trigger Amount, less any amounts obligated or anticipated to be necessary to pay Administrative Costs and School Support Expenses, shall be applied to the financing, design and construction of the HISD educational facilities. Any City Tax Increments deposited annually into the Tax Increment Fund in excess of the amount needed to pay Administrative Costs and School Support Expenses and costs incurred for HISD educational facilities may be used to pay other project costs, including any bonds issued to pay project costs. Any HISD Tax Increment Participation deposited annually into the Tax Increment Fund in excess of the amount needed to pay Administrative Costs and School Support Expenses shall be applied to the costs of HISD educational facilities.

As an alternative to the financing described in the preceding paragraph, at any time at the sole option of HISD, the Eastside Zone and the City agree that they will cooperate with the party of HISD's choice to finance and construct school facilities on property owned by HISD in the Eastside Zone. Such HISD option shall also include construction and financing by HISD with its own funds and/or construction and financing through an alternate source chosen by HISD and a financing procedure as determined by HISD. HISD's Tax Increment Participation and the City

Tax Increment paid into the Tax Increment Fund after the date HISD exercises its option, after deduction of annual School Support Expenses and Administrative Expenses, will be used to pay costs of HISD educational facilities or principal and interest on the debt incurred by HISD, or the party chosen by HISD, to finance and construct the school facilities ("School Facilities Debt"); provided, however, that the School Facilities Debt to be financed pursuant to this Agreement shall not exceed \$45 million plus the cost of financing. If the HISD Tax Increment Participation and City Tax Increment are not adequate to pay the School Facilities Debt, HISD shall pay the deficit ("Debt Deficit") from HISD available funds. HISD shall be repaid the Debt Deficit plus interest at the School Facilities Debt interest rate, but not to exceed \$45 million plus cost of financing including interest on the Debt Deficit, from the first available HISD Tax Increment Participation and City Tax Increment, after deduction of School Facilities Debt, School Support Expenses, and annual Administrative Costs.

If the Eastside Zone and the City fail to fulfill their obligations with respect to HISD's exercise of either of the foregoing options, HISD shall be entitled to withhold its tax increment, less HISD's pro rata share of annual Administrative Costs and School Support Expenses, until the Eastside Zone and the City perform the option selected by HISD.

All moneys used to finance and construct HISD school facilities shall come from or be financed by the Eastside Zone HISD Tax Increment Participation and City Tax Increments. The City shall never be obligated to expend any funds other than funds derived from the Eastside Zone to finance and construct HISD school facilities.

#### **D. Priority of Payments**

The primary purpose of the Eastside Zone is to provide for the development of shared educational facilities to be owned and operated by HISD in the Eastside Zone. Payments from the Tax Increment Fund for the shared educational facilities shall be made pursuant to the priorities and deductions contained in Subsection C of this Section V. In addition, at any time upon the initiation of construction of shared educational facilities to be financed pursuant to one of the two options available to HISD pursuant to Subsection C of this Section V, the City and the Zone shall not enter into any obligation to be paid with revenues from the Tax Increment Fund that has priority over the obligation to finance the shared educational facilities without the consent of HISD. Notwithstanding the foregoing, if HISD does not exercise the option to finance educational facilities pursuant to this paragraph within 24 months of the effective date of this Agreement, the City and the Eastside Zone shall have the right to enter into any agreements they deem necessary to implement the Project Plan and to pledge the City Tax Increment to the payment of obligations incurred under these agreements. In this event, the payments under any such agreement shall have priority over the obligation to pay the City Tax Increment for shared educational facilities.

#### **E. Control of Educational Facilities**

The parties agree that all decisions regarding location, construction and educational content of HISD educational facilities in or to serve the Eastside Zone will be in the control of HISD. Nothing in this subsection shall be construed to relieve HISD of the obligation to comply with all City ordinances and regulations applicable to the construction and operation of any educational facility by or on behalf of HISD.

## **VI. TERM AND TERMINATION**

### **A. Agreement Term**

This Agreement shall become effective as of the date of the final signature hereto, and shall remain in effect until December 31, 2028. HISD shall have the right to terminate this Agreement upon the payment of all project costs as identified in or contemplated by the initial Project Plan for the Eastside Zone approved by the City Council, including any bonds issued to pay project costs and/or the reimbursement of any person for the payment of project costs; annual Administrative Costs; School Support Expenses; School Facilities Debt; Debt Deficit and any other obligation to which HISD has agreed to pledge all or a portion of its Tax Increment Participation.

The first payment of increment taxes by HISD under this Agreement shall be for those taxes levied by HISD in the year 1998 and the last payment by HISD under this Agreement is for those taxes levied by HISD in the year 2027.

## **VII. MISCELLANEOUS**

### **A. Severability**

In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either HISD, the City or the Eastside Zone in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

In the event any term, covenant or condition shall be held invalid and affects in any manner the limitations on HISD's contributions or participation, then this Agreement shall be void

as to HISD and HISD shall have no liability for any incremental or other payments as may otherwise be provided for in this Agreement.

**B. Entire Agreement**

This Agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

**C. Written Amendment**

Unless otherwise provided herein, this Agreement may be amended only by written instrument duly executed on behalf of each party.

**D. Notices**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third (3rd) day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address prescribed in Section I of this Agreement or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

**E. Non-Waiver**

Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any